

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

**Judge Hellerstein**

21 MC 100 (AKH)

-----x  
IN RE WORLD TRADE CENTER  
DISASTER SITE LITIGATION  
-----x

ERNESTO CEVALLOS,

Plaintiff,

**08 CV 03494**

Docket No.:

**CHECK-OFF**  
**SHORT FORM**  
**COMPLAINT**

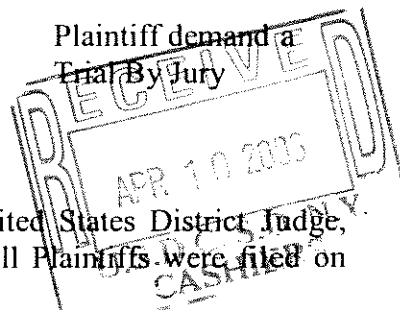
Related to the Master  
Complaint

-against-

THE CITY OF NEW YORK,  
THE PORT AUTHORITY OF NEW YORK  
AND NEW JERSEY, et. al.

Defendants.  
-----x

By Order of the Honorable Alvin K. Hellerstein, United States District Judge,  
dated June 22, 2006, ("the Order"), Master Complaints for all Plaintiffs were filed on  
August 18, 2006.



#### NOTICE OF ADOPTION

All headings and paragraphs in the Master Complaints are applicable to and are adopted by the instant Plaintiff(s) as if fully set forth herein in addition to those paragraphs specific to the individual Plaintiff(s), which are listed below. These are marked with an "x" if applicable to the instant Plaintiff(s), and specific case information is set forth, as needed, below.

Plaintiffs, by their attorneys BORCHERT, GENOVESI, LaSPINA & LANDICINO, P.C., complaining of Defendants, respectfully allege:

#### I. PARTIES

##### PLAINTIFF(S)

1. [X] Plaintiff ERNESTO CEVALLOS (hereinafter the "Injured Plaintiff"), is an individual and a citizen of New York, residing at 143 -11 Barclay Avenue, Apt. 4C, Flushing, NY 11355.

2. Alternatively, [ ] is the \_\_\_\_\_ of Decedent \_\_\_\_\_ and brings this claim in his (her) capacity as of the Estate of \_\_\_\_\_.

3. [ ] Plaintiff, \_\_\_\_\_ (hereinafter the "Derivative Plaintiff"), is an individual and a citizen of \_\_\_\_\_ residing at \_\_\_\_\_, and has the following relationship to the Injured Plaintiff:

[ ] PLAINTIFF \_\_\_\_\_ at all relevant times herein, is and has been lawfully married to Plaintiff \_\_\_\_\_ and brings this derivative action for her (his) loss due to the injuries sustained by her husband, \_\_\_\_\_ Plaintiff.

[ ] Parent [ ] Child [ ] Other: \_\_\_\_\_

4. In the period from September 11, 2001 through June, 2002, the Injured Plaintiff worked as a Police Officer for the New York City Police Department, assigned to \_\_\_\_\_, at:

Please be as specific as possible when filling in the following dates and locations

[X] The World Trade Center Site  
Location(s) Assigned to Rector Street  
and Trinity Place (i.e., building,  
quadrant, etc.) throughout the four  
quadrants.

[ ] The Barge  
From on or about \_\_\_\_\_ until \_\_\_\_\_  
Approximately \_\_\_\_\_ hours per day; for  
Approximately \_\_\_\_\_ days total.

Approximately thirty (30) tours (12 hour  
shifts) from on or about September 16,  
2001 until the last week of November,  
2001;

[ ] The New York City Medical  
Examiner's Office  
From on or about \_\_\_\_\_ until \_\_\_\_\_  
Approximately \_\_\_\_\_ hours per day; for  
Approximately \_\_\_\_\_ days total.

[ ] Other:\* For injured plaintiffs who  
worked at Non WTC Site building or  
location. The injured plaintiff worked at  
the address/location, for the dates  
alleged, for the hours per day, for the  
total days, and for the employer, as  
specified below:  
From on or about \_\_\_\_\_ until \_\_\_\_\_  
Approximately \_\_\_\_\_ hours per day; for  
Approximately \_\_\_\_\_ days total; Name  
and Address of Non-WTC Site  
Building/Worksite: \_\_\_\_\_

[ ] The Fresh Kills Landfill  
From on or about \_\_\_\_\_ until \_\_\_\_\_  
Approximately \_\_\_\_\_ hours per day; for  
Approximately \_\_\_\_\_ days total.

\*Continue this information on a separate sheet of paper if necessary. If more space is needed to specify

"Other" locations, please annex a separate sheet of paper with the information.

Please read this document carefully.

It is very important that you fill out each and every section of this document.

5. Injured Plaintiff

☒ Was exposed to and breathed noxious fumes on all dates, at the site(s) indicated above;

☒ Was exposed to and inhaled or ingested toxic substances and particulates on all dates at the site(s) indicated above;

☒ Was exposed to and absorbed or touched toxic or caustic substances on all dates at the sites) indicated above:

☐ Other: \_\_\_\_\_

6. Injured Plaintiff

☒ Has not made a claim to the Victim Compensation Fund. Pursuant to §405(c)(3)(B)(i) of the Air Transportation Safety and System Stabilization Act, 49 U.S.C. § 40101, the issue of waiver is inapplicable.

☐ Made a claim to the Victim Compensation Fund that was denied. Pursuant to 405(c)(3)(B)(i) of the Air Transportation Safety and System Stabilization Act, 49 U.S.C. § 40101, the issue of waiver is inapplicable.

☐ Made a claim to the Victim Compensation Fund, that was subsequently withdrawn by Ground-Zero Plaintiff. Pursuant to § 405(c)(3)(B)(i) of the Air Transportation Safety and System Stabilization Act, 49 U.S.C. § 40101. the issue of waiver is inapplicable.

☐ Made a claim to the Victim Compensation Fund that was granted. Pursuant to § 405(c)(3)(B)(i) of the Air Transportation Safety and System Stabilization Act, 49 U.S.C. § 40101, Ground Zero-Plaintiff has waived her/his right(s) to pursue any further legal action for the injuries identified in said claim.

B. DEFENDANT(S)

7. The following is a list of all Defendant(s) named in the Master Complaint. If checked, all paragraphs pertaining to that Defendant are deemed pleaded herein.

☒ THE CITY OF NEW YORK

☒ A Notice of Claim was timely filed and served on October 5, 2007.

☒ pursuant to General Municipal Law §50-h, the CITY held a hearing on December 28, 2007.

☐ The City has yet to hold a hearing as required by General Municipal Law §50-h

☒ More than thirty days have passed and the City has not adjusted the claim

☐ An Order to Show Cause application to

☐ deem Plaintiffs (Plaintiffs') Notice of Claim timely filed, or in the alternative to grant Plaintiff(s) leave to file a late Notice of Claim Nunc Pro Tunc (for leave to file a late Notice of Claim Nunc Pro Tunc) has been filed and a determination

☐ is pending

☐ Granting petition was made on \_\_\_\_\_

☐ Denying petition was made on \_\_\_\_\_

☒ PORT AUTHORITY OF NEW YORK AND NEW JERSEY ["PORT AUTHORITY"]

☒ A Notice of Claim was filed and served pursuant to Chapter 179, §7 of The Unconsolidated Laws of the State of New York on October 5, 2007.

☒ More than sixty days have elapsed since the Notice of Claim was filed, (and)

☐ the PORT AUTHORITY has adjusted this claim

☒ the PORT AUTHORITY has not adjusted this claim.

☐ 1 WORLD TRADE CENTER, LLC

☐ 1 WTC HOLDINGS, LLC

☐ WORLD TRADE CENTER, LLC

☐ 2 WTC HOLDINGS, LLC

☐ 4 WORLD TRADE CENTER, LLC

☐ 4 WTC HOLDINGS, LLC

☐ 5 WORLD TRADE CENTER, LLC

☐ 5 WTC HOLDINGS, LLC

☒ AMEC CONSTRUCTION MANAGEMENT, INC.

☐ 7 WORLD TRADE COMPANY, L.P.

☐ A RUSSO WRECKING

☐ ABM INDUSTRIES, INC.

☐ ABM JANITORIAL NORTHEAST, INC.

☒ AMEC EARTH & ENVIRONMENTAL, INC.

☐ ANTHONY CORTESE SPECIALIZED HAULING, LLC, INC.

☐ ATLANTIC HEYDT CORP

☐ BECHTEL ASSOCIATES PROFESSIONAL CORPORATION

☐ BECHTEL CONSTRUCTION, INC.

☐ BECHTEL CORPORATION

☐ BECHTEL ENVIRONMENTAL, INC.

☐ BERKEL & COMPANY, CONTRACTORS, INC.

☐ BIG APPLE WRECKING & CONSTRUCTION CORP

☒ BOVIS LEND LEASE, INC.

☒ BOVIS LEND LEASE LMB, INC.

☐ BREEZE CARTING CORP

☐ BREEZE NATIONAL, INC.

☐ BRER-FOUR TRANSPORTATION CORP.

☐ BURO HAPPOLD CONSULTING ENGINEERS, P.C.

☐ C.B. CONTRACTING CORP

☐ CANRON CONSTRUCTION CORP

☐ CANTOR SEINUK GROUP

☐ CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

☐ CORD CONTRACTING CO., INC

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☐ CRAIG TEST BORING COMPANY INC.  
☐ DAKOTA DEMO-TECH  
☐ DIAMOND POINT EXCAVATING CORP  
☐ DIEGO CONSTRUCTION, INC..  
☐ DIVERSIFIED CARTING, INC.  
☐ DMT ENTERPRISE, INC.  
☐ D'ONOFRIO GENERAL CONTRACTORS CORP  
☐ EAGLE LEASING & INDUSTRIAL SUPPLY  
☐ EAGLE ONE ROOFING CONTRACTORS INC,  
☐ EAGLE SCAFFOLDING CO  
☐ EJ DAVIES, INC.  
☐ EN-TECH CORP  
☐ ET ENVIRONMENTAL  
☐ EVERGREEN RECYCLING OF CORONA  
☐ EWELL W. FINLEY, P.C.  
☐ EXECUTIVE MEDICAL SERVICES, P.C.  
☐ F&G MECHANICAL, INC.  
☐ FLEET TRUCKING, INC.  
☐ FRANCIS A. LEE COMPANY, A CORPORATION  
☐ FTI TRUCKING  
☐ GILSANZ MURRAY STEFICEK, LLP  
☐ GOLDSTEIN ASSOCIATES CONSULTING ENGINEERS, PLLC  
☐ HALLEN WELDING SERVICE, INC.  
☐ H.P. ENVIRONMENTAL  
☐ KOCH SKANSKA INC.  
☐ LAQUILA CONSTRUCTION  
☐ LASTRADA GENERAL CONTRACTING CORP  
☐ LESLIE E. ROBERTSON ASSOCIATES CONSULTING ENGINEER P.C  
☐ LIBERTY MUTUAL GROUP  
☐ LOCKWOOD KESSLER & BARTLETT, INC,  
☐ LUCIUS PITKIN, INC

☐ LZA TECH-DIV OF THORTON TOMASETTI  
☐ MANAFORT BROTHERS, INC.  
☐ MAZZOCCHI WRECKING, INC.  
☐ MERIDIAN CONSTRUCTION CORP.  
☐ MORETRENCH AMERICAN CORP.  
☐ MRA ENGINEERING P.C.  
☐ MUESER RUTLEDGE CONSULTING ENGINEERS  
☐ NACIREMA INDUSTRIES INCORPORATED  
☐ NEW YORK CRANE & EQUIPMENT CORP.  
☐ NICHOLSON CONSTRUCTION COMPANY  
☐ OLYMPIC PLUMBING & HEATING  
☐ PETER SCALAMANDRE & SONS, INC.  
☐ PINNACLE ENVIRONMENTAL CORP  
☐ PLAZA CONSTRUCTION CORP.  
☐ PLAZA CONSTRUCTION MANAGEMENT CORP.  
☐ PRO SAFETY SERVICES, LLC  
☐ PT & L CONTRACTING CORP  
☐ REGIONAL SCAFFOLD & HOISTING CO, INC.  
☐ ROBER SILMAN ASSOCIATES  
☐ ROBERT L GEROSA, INC  
☐ RODAR ENTERPRISES, INC.  
☐ ROYAL GM INC.  
☐ SAB TRUCKING INC.  
☐ SAFEWAY ENVIRONMENTAL CORP  
☐ SEASONS INDUSTRIAL CONTRACTING  
☐ SEMCOR EQUIPMENT & MANUFACTURING CORP.  
☐ SILVERITE CONTRACTORS  
☐ SILVERSTEIN PROPERTIES  
☐ SILVERSTEIN PROPERTIES, INC.

Please read this document carefully.

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It is very important that you fill out each and every section of this document.

<input type="checkbox"/> SILVERSTEIN WTC FACILITY MANAGER, LLC <input type="checkbox"/> SILVERSTEIN WTC, LLC
<input type="checkbox"/> SILVERSTEIN WTC MANAGEMENT CO., LLC <input type="checkbox"/> SILVERSTEIN WTC PROPERTIES, LLC <input type="checkbox"/> SILVERSTEIN DEVELOPMENT CORP. <input type="checkbox"/> SILVERSTEIN WTC PROPERTIES LLC <input type="checkbox"/> SIMPSON GUMPERTZ & HEGER INC <input type="checkbox"/> SKIDMORE OWINGS & MERRILL LLP <input type="checkbox"/> SURVIVAIR <input type="checkbox"/> TISHMAN INTERIORS CORPORATION <input type="checkbox"/> TISHMAN SPEYER PROPERTIES <input type="checkbox"/> TISHMAN CONSTRUCTION CORPORATION OF MANHATTAN <input type="checkbox"/> TISHMAN CONSTRUCTION CORPORATION OF NEW YORK <input type="checkbox"/> THORNTON-TOMASETTI GROUP, INC. <input type="checkbox"/> TORRETTA TRUCKING, INC <input type="checkbox"/> TOTAL SAFETY CONSULTING, L.L.C <input type="checkbox"/> TUCCI EQUIPMENT RENTAL CORP

<input checked="" type="checkbox"/> TULLY CONSTRUCTION CO., INC. <input checked="" type="checkbox"/> TULLY ENVIRONMENTAL INC. <input checked="" type="checkbox"/> TULLY INDUSTRIES, INC. <input checked="" type="checkbox"/> TURNER CONSTRUCTION CO.
<input checked="" type="checkbox"/> TURNER CONSTRUCTION COMPANY <input checked="" type="checkbox"/> TURNER CONSTRUCTION INTERNATIONAL, LLC <input type="checkbox"/> TURNER/PLAZA, A JOINT VENTURE <input type="checkbox"/> ULTIMATE DEMOLITIONS/CS HAULING <input type="checkbox"/> VERIZON NEW YORK INC, <input type="checkbox"/> VOLLMER ASSOCIATES LLP <input type="checkbox"/> W HARRIS & SONS INC 13 WEEKS MARINE, INC. <input type="checkbox"/> WEIDLINGER ASSOCIATES, CONSULTING ENGINEERS, P.C. <input type="checkbox"/> WHITNEY CONTRACTING INC. <input type="checkbox"/> WOLKOW-BRAKER ROOFING CORP <input type="checkbox"/> WORLD TRADE CENTER PROPERTIES, LLC <input type="checkbox"/> WSP CANTOR SEINUK <input type="checkbox"/> YANNUZZI & SONS INC <input type="checkbox"/> YONKERS CONTRACTING COMPANY, INC, <input type="checkbox"/> YORK HUNTER CONSTRUCTION, LLC

☐ Non-WTC Site Building Owner  
 Name: \_\_\_\_\_  
 Business/Service Address: \_\_\_\_\_  
 Building/Worksite Address: \_\_\_\_\_

☐ Non-WTC Site Building Managing Agent  
 Name: \_\_\_\_\_  
 Business/Service Address: \_\_\_\_\_  
 Building/Worksite Address: \_\_\_\_\_

☐ Non-WTC Site Lessee  
 Name: \_\_\_\_\_  
 Business/Service Address: \_\_\_\_\_  
 Building/Worksite Address: \_\_\_\_\_

## II. JURISDICTION

8. The Court's jurisdiction over the subject matter of this action is:

Please read this document carefully.

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It is very important that you fill out each and every section of this document.

[X] Founded upon Federal Question Jurisdiction; specifically; [X]; Air Transport Safety & System Stabilization Act of 2001.

### III CAUSES OF ACTION

Plaintiff(s) seeks damages against the above named defendants based upon the following theories of liability, and asserts each element necessary to establish such a claim under the applicable substantive law:

[X] Breach of the defendants' duties and obligations pursuant to the New York State Labor Law(s) including §§ 200 and 240	[X] Common Law Negligence, including allegations of Fraud and Misrepresentation
[X] Breach of the defendants' duties and obligations pursuant to the New York State Labor Law 241(6)	[X] Air Quality; [X] Effectiveness of Mask Provided; [X] Effectiveness of Other Safety Equipment Provided
[ ] Pursuant to New York General Municipal Law §205-a	(specify: _____); [ ] Other (specify)
[X ] Pursuant to New York General Municipal Law §205-e	[ ] Loss of Services/Loss of Consortium for Derivative Plaintiff
	[ ] Other

Please read this document carefully.

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## IV CAUSATION, INJURY AND DAMAGE

9. As a direct and proximate result of defendant's culpable actions in the rescue and/or recovery and/or construction, renovation, alteration, demolition and all work performed at the premises, the Injured Plaintiff sustained (including, but not limited to) the following injuries:

<input type="checkbox"/> Cancer Injury: Date of onset: Date physician first connected this injury to WTC work:	<input type="checkbox"/> Cardiovascular Injury: Date of onset: Date physician first connected this injury to WTC work:
<input checked="" type="checkbox"/> Respiratory Injury: pulmonary sarcoidosis, noncaseating granulomas, arrhythmia, atrial fibrillation, respiratory problems, sinus or nasal problems, sleep apnea, chronic obstructive pulmonary defect and hypertension. The cough started while working in the site but was mild in severity. In March 23, 2007, plaintiff's cough worsened and he passed out. Plaintiff was taken to Montefiore Medical Center and diagnosed with atrial fibrillation. On July 27, 2007, plaintiff had a coughing fit and again passed out while driving. Plaintiff was hospitalized at Jacobi Medical Center and diagnosed with atrial fibrillation, hypertension, obstructive sleep apnea, chronic nonalcoholic liver disease, and coronary atherosclerosis. In the meantime, plaintiff's cough continued to worsen. Plaintiff was diagnosed on September 5, 2007 which revealed non-necrotizing granuloma. On September 17, 2007, plaintiff was diagnosed with sarcoidosis with a bronchoplastic component.  <b>Date physician first connected this injury to WTC work:</b> On or about September 17, 2007.	<input checked="" type="checkbox"/> Fear of Cancer Date of onset: <u>To be supplied</u> Date physician first connected this injury to WTC work: _____
	<input type="checkbox"/> Other Injury Date of Onset:

Please read this document carefully.

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NOTE: The foregoing is NOT an exhaustive list of injuries that may be alleged.

10 As a direct and proximate result of the injuries identified in paragraph "9", above, the Ground Zero-Plaintiff has in the past suffered and/or will in the future suffer the following compensable damages:

<input checked="" type="checkbox"/> Pain and suffering	<input checked="" type="checkbox"/> Expenses for medical care, treatment, and rehabilitation
<input checked="" type="checkbox"/> Loss of the enjoyment of life	<input checked="" type="checkbox"/> Other: <input checked="" type="checkbox"/> Mental anguish <input checked="" type="checkbox"/> Disability <input type="checkbox"/> Medical Monitoring <input type="checkbox"/> Other
<input checked="" type="checkbox"/> Loss of earnings and/or impairment of earning capacity	
<input checked="" type="checkbox"/> Loss of retirement benefits/diminution of retirement benefits	

11. As a direct and proximate result of the injuries described supra, the derivative plaintiff(s), if any, have in the past suffered and/or will in the future suffer a loss of the love, society, companionship, services, affection, and support of the plaintiff and such other losses, injuries and damages for which compensation is legally appropriate.

**WHEREFORE**, plaintiff(s) respectfully pray that the Court enter judgment in his/her/their favor and against defendant(s) for damages, costs of suit and such other, further and different relief as may be just and appropriate.

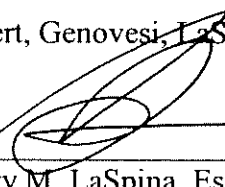
**Plaintiff(s) demands that all issues of fact in this case be tried before a properly empanelled jury.**

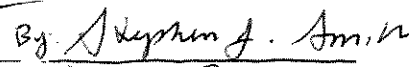
Please read this document carefully.

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Dated: Whitestone, New York  
April 9, 2008

Borchert, Genovesi, LaSpina & Landicino, P.C.

By:   
Gregory M. LaSpina, Esq. (GML-2740)  
Attorneys for Plaintiff

By:   
Stephen J. Smith  
(SS-5255)  
Attorney for Plaintiff

Please read this document carefully.

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ERNESTO CEVALLOS  
19-02 Whitestone Expressway, Suite 302  
Whitestone, New York 11357  
(718) 767-3333



Index No.

Year 20

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**ERNESTO CEVALLOS,**

**Plaintiff,**

**-against-**

**THE CITY OF NEW YORK,  
THE PORT AUTHORITY OF NEW YORK AND  
NEW JERSEY, et. al,**

**Defendants.**

**SUMMONS AND COMPLAINT**

**BORCHERT, GENOVESI, LASPINA & LANDICINO, P.C.**

*Attorneys for*

**Plaintiff**

SUITE 302

19-02 WHITESTONE EXPRESSWAY

WHITESTONE, NEW YORK 11357

(718) 767-3333

Pursuant to 22 NYCRR 130-1.1-a, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, (1) the contentions contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom and that (ii) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-a.

Dated: .....

Signature .....

Print Signer's Name .....

Service of a copy of the within

is hereby admitted.

Dated: .....

Attorney(s) for .....

**PLEASE TAKE NOTICE**

Check Applicable Box



NOTICE OF  
ENTRY

that the within is a (certified) true copy of a  
entered in the office of the clerk of the within-named Court on

20



NOTICE OF  
SETTLEMENT

that an Order of which the within is a true copy will be presented for settlement to the  
Hon. , one of the judges of the within-named Court,  
at  
on

20

, at

M.

Dated: .....

**BORCHERT, GENOVESI, LASPINA & LANDICINO, P.C.**

*Attorneys for*